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In re Application of
APPLEYARD, Steven, Philips et al
U.S. Application No.: 10/019,625
PCT Application No.: PCT/GB00/02363
Filing Date: 03 July 2000
Priority Date: 01 July 1999
Attorney's Docket No.: 50055/1
For: HIGHLY ORIENTED MESOPHASE
PITCH-BASED GRAPHITE TAPE AND
BULK CARBON MATERIAL

**DECISION ON
RENEWED PETITION**

This decision is in response to applicants' "Response to Applicants' Petition . . ." filed 29 May 2003.

BACKGROUND

On 15 May 2003, a decision dismissing applicants' petition under 37 CFR 1.181 was mailed because applicants did not provide a date-stamped postcard receipt for the declaration purportedly filed 30 April 2002. Applicants' petition under 37 CFR 1.137(b) was also dismissed because the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b).

On 29 May 2003, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, a copy of the date-stamped postcard receipt for the documents filed 30 April 2003 and a copy of the declaration signed by each of the three co-inventors.

DISCUSSION

The original petition was first treated as a petition to withdraw the holding of abandonment. However, this petition was dismissed because applicants failed to provide a copy of the date-stamped postcard receipt for the documents filed 30 April 2002. Applicants' petition was then considered under 37 CFR 1.137(b). This petition was also dismissed because the declaration was not deemed to be a proper response since the declaration provided was only a partial declaration and not in compliance with 37 CFR 1.497(a) and (b).

In the renewed petition, applicants have now provided a copy of a date-stamped

postcard receipt for the documents purportedly filed 30 April 2002. The postcard receipt clearly identifies the application and all papers submitted. The receipt acknowledges that a "Declaration for Patent Application (5 pgs.)" was recorded as one of the documents submitted. The receipt has a stamp of "JC02 Rec'd PCT/PTO 30 APR 2002" across its face.

Accordingly, applicants have provided *prima facie* evidence that a declaration consisting of 5 pages was received by the USPTO on 30 April 2002. Thus, applicants have shown that they did submit a timely response to the Form PCT/DO/EO/905 mailed 12 March 2002. For this reason, the renewed petition will not be considered under 37 CFR 1.137(b).

DECISION

Applicants' renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment mailed 13 January 2003 is hereby **VACATED**.

The petition to revive fee of \$650.00 has been credited back to counsel's Deposit Account No. 50-2375.

The declaration originally submitted on 30 April 2002 was only a partial declaration and not in compliance with 37 CFR 1.497(a) and (b). Nevertheless, applicants filed a complete declaration with the instant renewed petition which is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee was previously paid.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 July 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 29 May 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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